



STATE OF WASHINGTON

**LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS'
PLAN 2 RETIREMENT BOARD**

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TO: Steve Nelsen, Executive Director
LEOFF Plan 2 Retirement Board

FROM: Greg Deam, Senior Research Analyst and Policy Manager
LEOFF Plan 2 Retirement Board

SUBJECT: Contractual Rights Clause

The Select Committee on Pension Policy (SCPP) recently asked for an Attorney General Opinion (AGO) on the enforceability of a clause that reserves "contractual rights" when a new pension benefit is created. The Law Enforcement Officers' and Fire Fighters' Plan 2 Retirement Board requested that we provide them with any statutes containing such a clause that affect LEOFF Plan 2 members. A copy of those statutes is shown below:

RCW 41.04.440

Members' retirement contributions -- Pick up by employer -- Purpose -- Benefits not contractual right.

(1) The sole purpose of RCW [41.04.445](#) and [41.04.450](#) is to allow the members of the retirement systems created in chapters [2.10](#), [2.12](#), [41.26](#), [41.32](#), [41.40](#), [41.34](#), and [43.43](#) RCW to enjoy the tax deferral benefits allowed under 26 U.S.C. 414(h). Chapter 227, Laws of 1984 does not alter in any manner the provisions of RCW [41.45.060](#), [41.45.061](#), and [41.45.067](#) which require that the member contribution rates shall be set so as to provide fifty percent of the cost of the respective retirement plans.

(2) Should the legislature revoke any benefit allowed under 26 U.S.C. 414(h), no affected employee shall be entitled thereafter to receive such benefit as a matter of contractual right.

RCW 41.04.545

Disability leave supplement for law enforcement officers and fire fighters -- Vested right not created.

Chapter 462, Laws of 1985 neither grants employees a vested right to receive a disability leave supplement nor creates a contractual obligation on behalf of the state or its political subdivisions to provide a disability leave supplement.